

**PT 00-5**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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<b>TRINITY LUTHERAN CHURCH</b>	)		
<b>OF MILLSTADT</b>	)	<b>A. H. Docket #</b>	<b>98-PT-0074</b>
<b>Applicant</b>	)	<b>Docket #</b>	<b>98-82-284</b>
	)	<b>Parcel Index #</b>	<b>12-10.0-113-013</b>
<b>v.</b>	)		<b>12-10.0-113-014</b>
	)	<b>Barbara S. Rowe</b>	
<b>THE DEPARTMENT OF REVENUE</b>	)	<b>Administrative Law Judge</b>	
<b>OF THE STATE OF ILLINOIS</b>	)		

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Mr. Donald M. Samson, Attorney at Law for Trinity Lutheran Church of Millstadt.

**Synopsis:**

The hearing in this matter was held in Collinsville, Illinois on June 17, 1999, to determine whether or not St. Clair County Parcel Index Nos. 12-10.0-113-013 and 12-10.0-113-014 qualified for exemption during the 1998 assessment year.

Vernon G. Linnemann, elder, and Deborah Petrowske, Sunday School superintendent and treasurer of Trinity Lutheran Church of Millstadt, (hereinafter referred to as the "Applicant") were present and testified on behalf of the applicant.

The issues in this matter are: first, whether the applicant was the owner of the parcels during the 1998 assessment year; secondly, whether the applicant is a religious organization; and lastly, whether these parcels were used by the applicant for religious purposes during the 1998 assessment year. Following the submission of all the evidence and a review of the record, it is

determined that the applicant owned these parcels during all of the 1998 assessment year. It is also determined that the applicant is a religious organization. Finally, it is determined that the applicant used the parcels primarily for religious purposes during the entire 1998 assessment year.

**Findings of Fact:**

1. The jurisdiction and position of the Department that St. Clair County Parcel Index Nos. 12-10.0-113-013 and 12-10.0-113-014 did not qualify for a property tax exemption for the 1998 assessment year was established by the admission into evidence of Dept. Ex. Nos. 1 through 5. (Tr. p. 8)

2. On September 14, 1998, the Department received a property tax exemption application from the St. Clair County Board of Review for Permanent Parcel Index Nos. 12-10.0-113-013 and 12-10.0-113-014. The applicant submitted the request and the board recommended granting the exemption for the 1998 assessment year. The Department assigned Docket No. 98-82-284 to the application. (Dept. Grp. Ex. No. 2)

3. On October 8, 1998, the Department denied the requested exemption application, finding that the property was not in exempt use. (Dept. Ex. No. 3)

4. The applicant timely protested the denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing at the Illinois State Office Complex, 1100 Eastport Plaza Drive, Collinsville, Illinois on June 17, 1999, was held pursuant to that request. (Dept. Ex. No. 5)

6. The applicant acquired the subject properties by a corporate warranty deed dated May 13, 1994. The mortgage on the properties was paid in full on March 5, 1999. (Dept. Ex. No. 2; Applicant's Ex. No. 6; Tr. p. 17)

7. The subject properties are vacant lots adjacent to the applicant's church. The applicant realized that if they wished the congregation to grow, the acquisition of additional land would be necessary. In 1998 a feasibility study was done to determine what the members of the

applicant wanted to do with the properties. The result of the study was that eventually the applicant would build a multi-purpose building to accommodate the needs of the youth of the congregation as well as other needs of the church. A preliminary floor plan has been drawn for the proposed building. (Dept. Ex. No. 2; Applicant's Ex. Nos. 1 & 2; Tr. pp. 11-16, 32-35)

8. The applicant's current Sunday school program is cramped. Six classes are held in the basement of the church with the classrooms separated by curtains. Weather permitting, the Sunday school classes are held outside on the lots in question. (Tr. pp. 21-22, 28, 32, 37)

9. The applicant is fairly conservative financially and did not want to incur a large building debt on the properties before they were paid for. (Tr. pp. 9, 16-18)

10. During the Christmas season in 1998, the applicant conducted a community wide live nativity scene on the parcels in question. More than 80 members of the applicant played the parts of the holy family, shepherds, wise men, and angels. Various animals were part of the nativity scene including donkeys, cows, lamas, sheep, and chickens. (Applicant's Ex. Nos. 3, 4, & 5; Tr. pp. 18-21, 29-32)

11. In 1998, in addition to the live nativity scene on the subject parcels, the applicant also used the properties for an Easter egg hunt, a balloon kick-off for the Sunday school program in the fall, vacation Bible-school activities, and a mini-carnival at the closing of vacation Bible school. Over 100 children attended vacation Bible school at applicant's church in 1998. (Applicant's Ex. Nos. 3, 4, & 5; Tr. pp. 29, 37-38)

12. I take administrative notice of the fact that the Department has determined that the applicant is a religious organization and has granted two property exemptions to the organization pursuant to Docket Nos. 92-82-117 and 92-82-118.

**Conclusions of Law:**

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the statutory authority granted by the Constitution, the legislature has enacted exemptions for property tax purposes. At issue is the one found at 35 ILCS 200/15-40, which provides as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, . . .

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex. rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

In The People v. Deutsche Gemeinde, 249 Ill. 132 (1911) the Illinois Supreme Court stated:

Unless facts are stated from which it can be seen that the use is religious or a school use in the sense in which the term is used in the constitution the application should be denied. The words used in the constitution are to be taken in their ordinary acceptation and under the rule of strict construction, which excludes all purposes not within the contemplation of the framers of that instrument. While religion, in its broadest sense, includes all forms and phases of belief in existence of superior beings capable of exercising power over the human race, yet in the common understanding and in its application to the people of this State it means the formal recognition of God as members of societies and associations. As applied to the uses of property, a religious purpose means a use of such property by a religious society or body of persons as a stated place for public worship, Sunday schools and religious instruction. *Id.* at 136-137.

The applicant has established that the two parcels at issue were used for a live nativity

scene, an Easter egg hunt, vacation Bible school, and Sunday school programs. I therefore find that the parcels at issue were primarily used for religious purposes in 1998. It is recommended that St. Clair Parcel Index Nos. 12-10.0-113-013 and 12-10.0-113-014 be exempted from property taxation for the 1998 assessment year.

Respectfully Submitted,

Barbara S. Rowe  
Administrative Law Judge  
March 21, 2000